

§ 555.71

with paragraph (a)(4) of this section that the changes have been completed.

(d) *Magazines acquired or constructed after permit or license is issued.* A licensee or permittee who intends to construct or acquire additional magazines shall notify the regional director (compliance) in accordance with paragraph (a)(4) of this section describing the additional magazines and the class and quantity of explosives to be stored in the magazine. Unless otherwise advised by the regional director (compliance), additional magazines may be constructed, or acquired magazines may be used for the storage of explosives. Explosives must not be stored in a magazine under construction. The regional director (compliance) must be notified that construction has been completed.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-400, 63 FR 45002, Aug. 24, 1998]

Subpart E—License and Permit Proceedings

§ 555.71 Opportunity for compliance.

Except in cases of willfulness or those in which the public interest requires otherwise, and the regional director (compliance) so alleges in the notice of denial of an application or revocation of a license or permit, no license or permit will be revoked or renewal application denied without first calling to the attention of the licensee or permittee the reasons for the contemplated action and affording him an opportunity to demonstrate or achieve compliance with all lawful requirements and to submit facts, arguments, or proposals of adjustment. The notice of contemplated action, ATF F 5400.12, will afford the licensee or permittee 15 days from the date of receipt of the notice to respond. If no response is received within the 15 days, or if after consideration of relevant matters presented by the licensee or permittee, the regional director (compliance) finds that the licensee or permittee is not likely to abide by the law and regula-

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tions, he will proceed as provided in § 555.74.

[T.D. ATF-87, 46 FR 40384, Aug. 7 1981, as amended by T.D. ATF-446, 66 FR 16602, Mar. 27, 2001]

§ 555.72 Denial of initial application.

Whenever the regional director (compliance) has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of § 555.49, he shall issue a notice of denial on ATF F 5400.11. The notice will set forth the matters of fact and law relied upon in determining that the application should be denied, and will afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked “Disapproved”, will be returned to the applicant.

§ 555.73 Hearing after initial application is denied.

If the applicant for an original license or permit desires a hearing, he shall file a request with the regional director (compliance) within 15 days after receipt of the notice of denial. The request should include a statement of the reasons for a hearing. On receipt of the request, the regional director (compliance) shall refer the matter to an administrative law judge who shall set a time and place (see § 555.77) for a hearing and shall serve notice of the hearing upon the applicant and the regional director (compliance) at least 10 days in advance of the hearing date. The hearing will be conducted in accordance with the hearing procedures prescribed in part 71 of this chapter (see § 555.82). Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his recommended decision. He shall certify to the complete record of the proceedings before him and shall immediately forward the complete certified record, together with four copies of his recommended decision, to the regional director (compliance) for decision.